

SENATE BILL 1188

By Norris

AN ACT to amend Tennessee Code Annotated, Title 62,
relative to professional licenses and regulations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 62-2-401(a)(1), is amended by deleting the language "and who has obtained certification as an engineer intern" and substituting instead the language "and passed an examination prepared by the National Council of Examiners for Engineering and Surveying involving the fundamentals of engineering".

SECTION 2. Tennessee Code Annotated, Section 62-3-110(b)(3), is amended by deleting the subdivision and substituting instead the following:

(3) Either:

(A) Has satisfactorily completed a course of one thousand five hundred (1,500) hours in a registered barber school or college; or

(B) Holds a valid Tennessee cosmetology license and has completed three hundred (300) hours in a registered barber school or college regarding the fundamentals of straight razor shaving and barbering technique.

SECTION 3. Tennessee Code Annotated, Section 62-4-110, is amended by deleting subsection (a) and substituting instead the following:

(a) Any person who desires a cosmetologist's license shall submit an application for examination to the board on the prescribed form. The application shall be accompanied by:

(1) A nonrefundable, nontransferable application/examination fee as set by the board;

(2) Satisfactory proof that the applicant has attained the age of at least sixteen (16) years; and

(3) Satisfactory proof that the applicant either:

(A) Has completed and passed a course of instruction of no less than one thousand five hundred (1,500) hours in practice and theory at a school of cosmetology; or

(B) Holds a valid Tennessee master barber registration and has completed three hundred (300) hours in a licensed school of cosmetology learning the fundamentals of cosmetology technique and pedicuring.

SECTION 4. Tennessee Code Annotated, Section 62-6-308, is amended by deleting subdivision (a)(8) and substituting instead the following:

(8) Committing a felony;

SECTION 5. Tennessee Code Annotated, Section 62-6-506(h), is amended by deleting the language "a cash, surety or property bond" and substituting instead the language "a surety bond".

SECTION 6. Tennessee Code Annotated, Section 62-13-309, is amended by deleting subdivision (a)(3) and substituting instead the following:

(3) Within ten (10) days after any change of location of the office, the principal broker registered at that office shall notify the commission in writing of the office's new business address and shall pay the fee established in § 62-13-308. The new address shall be considered the new business address for all brokers or affiliate brokers associated with the location unless any such brokers or affiliate brokers otherwise notify the commission of a new business address through a change of affiliation, termination of affiliation, or by other means acceptable to the commission.

SECTION 7. Tennessee Code Annotated, Section 62-35-105, is amended by adding the following new subsections:

(d)

(1) Notwithstanding any provision of this chapter to the contrary, a properly licensed contract security company may use temporary employees not registered with the department as temporary security guards for special events upon the approval of a special event permit by the commissioner. A temporary security guard used pursuant to this subdivision (d)(1) must:

(A) Be at least eighteen (18) years of age;

(B) Act as a temporary security guard under a special event permit for no more than ten (10) days in a calendar year;

(C) Have no arrest authority; and

(D) Not be armed during the temporary employment.

(2) Applications for a special event permit must include:

(A) The names of the temporary employees;

(B) The addresses of the temporary employees;

(C) The birth dates of the temporary employees;

(D) The fee as set by subsection (e);

(E) The identity, location, and date of the special event or events for which the temporary employees are to be employed; and

(F) Other information as the commissioner may reasonably require.

(e) Applications for a special event permit must be submitted to the commissioner at least five (5) days prior to the commencement of the special event and accompanied by a fee for each temporary employee or special event permit as set by rule. If the commissioner has not set a fee for registration of a temporary employee or special event permit by rule, then the fee shall be thirty-five dollars (\$35.00) per temporary employee.

(f) A special event permit shall only be valid for the dates, locations, and events disclosed on the permit application. A new application for a special event permit must be filed for any additional dates or locations not authorized.

(g) The commissioner may decline to issue a special event permit if the commissioner, in the commissioner's sole discretion, determines that the issuance of such a permit is not in the best interest of the public based on the size of the event, the level of security required by the event, the number of permits previously issued to a contract security company during the past year, or other factors as the commissioner may reasonably consider.

(h) Prior to approving the request for a special event permit, the commissioner may require that any person requesting a permit provide a bond on a form acceptable to the commissioner in an amount set by the commissioner. The bond shall be for the benefit of any person who is damaged by a temporary security guard acting under a special event permit.

SECTION 8. Tennessee Code Annotated, Section 62-39-402, is amended by deleting the section and substituting instead the following:

For purposes of this part, unless the context otherwise requires:

(1) "Affiliate" has the meaning provided in 12 U.S.C. § 1841;

(2) "AMC National Registry" means the registry of state-registered AMCs and federally regulated AMCs maintained by the appraisal subcommittee;

(3) "Appraisal" means the act or process of developing an opinion of value of identified real estate. That opinion of value may be numerically expressed either as a specific amount, as a range of numbers, or as a relationship to a previous value opinion or other numerical benchmark.

"Appraisal" does not include any opinion of value referred to as evaluations under § 62-39-104;

(4) "Appraisal management company" or "AMC":

(A) Means a person that:

(i) Provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates;

(ii) Provides such services in connection with valuing a consumer's principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations; and

(iii) Within a given twelve-month period, as defined in 12 C.F.R. § 1222.22(d), oversees an appraiser panel of more than fifteen (15) state-certified or state-licensed appraisers in a state or twenty-five (25) or more state-certified or state-licensed appraisers in two (2) or more states, as described in 12 C.F.R. § 1222.22;

(B) Does not include a department or division of an entity that provides appraisal management services only to that entity;

(5) "Appraisal management services" means one (1) or more of the following:

(A) Recruiting, selecting, and retaining appraisers;

(B) Contracting with state-certified or state-licensed appraisers to perform appraisal assignments;

(C) Managing the process of having an appraisal performed, including providing administrative services such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to

creditors and secondary mortgage market participants, collecting fees from creditors and secondary mortgage market participants for services provided, and paying appraisers for services performed; and

(D) Reviewing and verifying the work of appraisers;

(6) "Appraisal subcommittee" or "ASC" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council;

(7) "Appraiser" means an individual who holds a license under part 1 of this chapter;

(8) "Appraiser panel" means a network, list, or roster of appraisers approved by an AMC to perform appraisals as independent contractors for the AMC. Appraisers on an AMC's appraiser panel under this part include both appraisers accepted by the AMC for consideration for future appraisal assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions and appraisers engaged by the AMC to perform one (1) or more appraisals in covered transactions or for secondary mortgage market participants in connection with covered transactions. An appraiser is an independent contractor for purposes of this subdivision (7) if the appraiser is treated as an independent contractor by the AMC for purposes of federal income taxation;

(9) "Commission" means the real estate appraiser commission created by § 62-39-201;

(10) "Consumer credit" means credit offered or extended to a consumer primarily for personal, family, or household purposes;

(11) "Controlling person" means:

(A) An owner, officer or director of a corporation, partnership, or other business entity seeking to offer appraisal management services in this state;

(B) An individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and has the authority to enter into agreements with appraisers for the performance of appraisals; or

(C) An individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company;

(12) "Covered transaction" means any consumer credit transaction secured by the consumer's principal dwelling;

(13)

(A) "Creditor" means a person who regularly extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four (4) installments, not including any down payment, and to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract;

(B) A person regularly extends consumer credit if the person either:

(i) Extended credit, other than credit subject to the requirements of 12 C.F.R. § 1026.32, more than five (5) times for transactions secured by a dwelling in the preceding calendar year

or, if a person did not meet these numerical standards in the preceding calendar year, in the current calendar year; or

(ii) In any twelve-month period, originates more than one (1) credit extension that is subject to the requirements of 12 C.F.R. § 1026.32 or originates one (1) or more such credit extensions through a mortgage broker;

(14)

(A) "Dwelling" means a residential structure that contains one (1) to four (4) units, whether or not that structure is attached to real property. "Dwelling" includes individual condominium units, cooperative units, mobile homes, and trailers, if used as a residence;

(B) A consumer may have only one (1) principal dwelling at a time. A vacation or other second home is not a principal dwelling. However, if a consumer buys or builds a new dwelling that will become the consumer's principal dwelling within one (1) year or upon the completion of construction, the new dwelling is considered the principal dwelling for purposes of this section;

(15) "Federally regulated AMC" means an AMC that is owned and controlled by an insured depository institution, as defined in 12 U.S.C. § 1813, and that is regulated by the office of the comptroller of the currency, the board of governors of the federal reserve system, or the federal deposit insurance corporation;

(16) "Person" means a natural person or an entity, including a corporation, limited liability company, partnership, sole proprietorship, association, cooperative, estate, trust, or government unit;

(17) "Secondary mortgage market participant" means a guarantor or insurer of mortgage-backed securities, or an underwriter or issuer of mortgage-backed securities, and only includes an individual investor in a mortgage-backed security if that investor also serves in the capacity of guarantor, insurer, underwriter, or issuer for the mortgage-backed security;

(18) "States" means the fifty (50) states, the District of Columbia and the territories of Guam, Mariana Islands, Puerto Rico, and the U.S. Virgin Islands; and

(19) "Uniform Standards of Professional Appraisal Practice" or "USPAP" means the appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation.

SECTION 9. Tennessee Code Annotated, Section 62-39-404, is amended by deleting the section and substituting instead the following:

This part shall not apply to:

(1) A national or state bank or federal or state savings institution that is subject to direct regulation or supervision by an agency of the United States government, or by the department of financial institutions, that receives a request for the performance of an appraisal from one (1) employee of the financial institution, and another employee of the same financial institution assigns the request for the appraisal to an appraiser who is an independent contractor to the institution. An entity exempt as provided in this subdivision (1) shall file a notice with the commission that contains the information required in § 62-39-403;

(2) An appraiser that enters into an agreement, whether written or otherwise, with an appraiser for the performance of an appraisal, and upon the completion of the appraisal, the report of the appraiser performing the appraisal

is signed by both the appraiser who completed the appraisal and the appraiser who requested the completion of the appraisal;

(3) Any state agency or local municipality that orders appraisals for ad valorem tax purposes or any other business on behalf of the this state;

(4) Any person licensed to practice law in this state, a court-appointed personal representative, or a trustee who orders an appraisal in connection with a bona fide client relationship when such person directly contracts with an independent appraiser;

(5) A certified public accountant or CPA firm regulated under chapter 1, part 1 of this title; or

(6)

(A) A federally regulated AMC;

(B) Notwithstanding subdivision (6)(A), any federally regulated AMC operating in this state shall report to the commission the information required to be submitted by the commission to the appraisal subcommittee pursuant to the appraisal subcommittee's policies regarding the determination of the AMC National Registry fee, including, but not limited to, the collection of information related to the limitations set forth in 12 C.F.R. § 34.215, as applicable.

SECTION 10. Tennessee Code Annotated, Section 62-39-409, is amended by deleting subsection (a) and substituting instead the following:

(a)

(1) An appraisal management company applying for a registration in this state shall not be owned, in whole or in part, directly or indirectly, by:

(A) Any person who has had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of revocation in any state for a substantive cause, as determined by the commission; or

(B) An entity that is more than ten percent (10%) owned by any person who has had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of revocation in any state for a substantive cause, as determined by the commission.

(2) Each person who owns more than ten percent (10%) of an appraisal management company in this state shall:

(A) Be of good moral character, as determined by the commission; and

(B) Submit to a background investigation, as may be required by the commission.

(3) The commission may, in its discretion, issue a registration to an appraisal management company that is ineligible under subdivision (a)(1), but is otherwise qualified, if the license or certificate of the appraiser with an ownership interest in the appraisal management company or the owning entity was not revoked for a substantive cause, as determined by the commission, and has been reinstated by the state or states in which the appraiser was licensed or certified.

SECTION 11. Tennessee Code Annotated, Section 62-39-412, is amended by designating the existing language as subsection (a) and adding the following as a new subsection (b):

(b) Each appraisal management company shall, at the request of the commission, provide the names of all persons on the AMC's appraisal panel and a list of all state appraisal licenses or certifications each appraiser on the panel holds, including the state of issuance, expiration date, and number of each certification or license, which the commission may verify.

SECTION 12. Tennessee Code Annotated, Section 62-39-417, is amended by deleting the section and substituting instead the following:

(a) Each appraisal management company registered or seeking to be registered must certify to the commission biennially that it maintains a detailed record of each service request for appraisal services within this state that it receives and of each appraiser who performs an appraisal for the appraisal management company in this state.

(b) The commission may examine the books and records of an appraisal management company operating in this state and require such an appraisal management company to submit such reports, information, and documents as the commission may reasonably require.

SECTION 13. Tennessee Code Annotated, Title 62, Chapter 39, Part 4, is amended by adding the following language as a new, appropriately designated section:

In addition to all other powers and authority provided by this chapter or other applicable law, the commission shall have the power to:

(1) Conduct investigations of an AMC to assess potential violations of applicable appraisal-related laws, regulations, or orders;

(2) Discipline, suspend, terminate, or deny renewal of the registration of an AMC that violates applicable appraisal-related laws, regulations, or orders;

(3) Report an AMC's violation of applicable appraisal-related laws, regulations, or orders, as well as disciplinary and enforcement actions and other relevant information about an AMC's operations, to the appraisal subcommittee;

(4) Submit to the appraisal subcommittee any information required to be submitted by the appraisal subcommittee's regulations or guidance concerning AMCs that operate in this state; and

(5) Collect and transmit to the appraisal subcommittee an annual registry fee, in the amount set by the appraisal subcommittee, from state registered AMCs and AMCs operating as subsidiaries of a federally regulated financial institution in this state.

SECTION 14. Tennessee Code Annotated, Title 62, Chapter 39, Part 4, is amended by adding the following language as a new, appropriately designated section:

All AMCs operating in this state that are not owned and controlled by an insured depository institution and are not regulated by a federal financial institution's regulatory agency shall:

(1) Register with and be subject to supervision by the commission, unless otherwise exempt;

(2) For appraisals in this state, engage only state-certified or state-licensed appraisers holding a credential in good standing in this state;

(3) Establish and comply with processes and controls reasonably designed to ensure that the AMC, in engaging an appraiser, selects an appraiser who is independent of the transaction and who has the requisite education, expertise, and experience to competently complete the appraisal assignment for the particular market and property type;

(4) Direct the appraiser to perform the assignment in accordance with the USPAP; and

(5) Establish and comply with processes and controls reasonably designed to ensure that the AMC conducts its appraisal management services in accordance with the requirements of section 129E(a)-(i) of the Truth in Lending Act (15 U.S.C. § 1639e(a)-(i)) and regulations promulgated thereunder.

SECTION 15. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2017, the public welfare requiring it.